

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

SOUTHEAST FLOATING DOCK)
ESTATE FUND,)
Plaintiff,)
)
v.)
)
AGM MARINE CONTRACTORS, INC.,)
et al.)
)
Defendants.)

CIVIL ACTION NO.:
05-11039-EFH

ORDER

March 24, 2008

HARRINGTON, S.D.J.

Southeast has argued that the Town's production of its privilege log was untimely, thus waiving any applicable privilege. Determining the consequences of a belated production is often a context-dependent inquiry. The Town is therefore ordered to *briefly* explain why it had not submitted the privilege log earlier. The Court notes that although the Court will consider any specifically legal arguments the Town may choose to make on the subject of waiver, the Court is principally interested in the Town's explanation for not submitting a privilege log earlier.¹ The

¹The Town has already made a number of arguments and representations with regard to the general issue of substantial compliance. The Town is not required to repeat them, but may do so if it thinks that they might bear on the Town's production of its privilege log.

Town is ordered to respond by March 31, 2008.²

SO ORDERED.

/s/ Edward F. Harrington
EDWARD F. HARRINGTON
United States Senior District Judge

²The Town might conclude that, regardless of the merit of its privilege claims and other arguments, that pursuing privilege as to some or all of these documents may not be worth the time or effort. (Based on a preliminary perusal of the documents, the Court notes that many of the items are essentially trivial in nature.) Of course, that is a decision for the Town, not the Court, to make and should not be taken as an indication that the Court has made any determination vis-a-vis waiver, substantial compliance, or privilege. If the Town does not wish to press the issue of privilege, it may so inform the Court in lieu of a filing explaining the timing of the privilege log.